Shri Mohanlal Patidar vs. R.P.S.C. Ajmer & Ors.
(S.B.C.Writ Petition No.2639/93)

Dated:- 4th August, 2006

HON'BLE MR.JUSTICE MOHAMMAD RAFIQ

Mr.Harish Purohit, for the petitioner.
Mr.Sidharth Joshi, for the respondent.
Mr.Rameshwar Dave, Dy.G.A. for the State.

The petitioner has filed this writ petition seeking a writ of mandamus directing the Rajasthan Public Service Commission(for short R.P.S.C.) to treat him as eligible for the post of Headmaster, Secondary School and accordingly consider his candidature against such post advertised vide advertisement No.10/91-92 and give him appointment if found selected.

This Court while admitting the writ petition on 27.5.1993 passed the following order on the stay application:-

> "In the meanwhile Rajasthan Public Service Commission is directed to interview the petitioner for selection for the post of Headmaster Second School. Result of the petitioners shall be kept in seal cover and shall be produced before the court on the next date of hearing because success or the failure of the petitioner at the interview would influence further consideration of the matter."

Subsequently when the matter was again listed before the Court on 2.9.1993, result of the petitioner was produced before the Court. It was informed that the last candidate who has been selected pursuant to advertisement Annexure 2 secured 50 marks whereas the petitioner obtained only 45 marks and therefore could not be selected.

In the main writ petition the relief prayed for by the petitioner

is that the schedule appended with the eligibility condition laid down in clause (6) of the Advertisement is based on the relevant entry as Grade `F' service in the schedule-I appended with the Rajasthan Education Service Rules, 1970 should be so construed as to include the diploma of physical education possessed by the petitioner and consider the petitioner eligible for promotion on the basis thereof. The relevant entry made in the aforesaid schedule is reproduced hereunder:-

> "(i) Graduation with degree or diploma in Education from any recognised University."

The said clause further provides that an incumbent must possess 5 years experience of teaching High School/Junior Higher Secondary/Higher Secondary classes, or 4 years experience for discharging administrative duties in Middle School with 3 years teachers experience for High School/ Junior Higher Secondary/ Higher Secondary classes.

I do not find any substance in the argument of the petitioner because degree of Bachelor of Education namely is B.Ed. and Post Graduation degree in the same subject is known as M.Ed. but diploma in education certainly cannot be construed to mean diploma in physical education. Apart from the merits of the this case, this writ petition is liable to be rejected for the reason that in spite being allowed to appear in the interview when the petitioner could not be selected, the entire exercise undertaken by him was in futility.

For the reasons mentioned above, the writ petition is dismissed . There shall be no order as to costs.

(MOHAMMAD RAFIQ),J.

Smt.Vinod Achara vs. State of Rajasthan & Ors.
(S.B.C.Writ Petition No.3344/93)

Dated:-

HON'BLE MR.JUSTICE MOHAMMAD RAFIQ

Mr.Harish Purohit, for the petitioner.
Mr.Rameshwar Dave, Dy.G.A. for the State.

In this petition, the petitioner has prayed for quashment of order Annexure 3 dated 25.5.1993 whereby his representation against termination of his services vide order dated 25th May, 1993 was rejected and further prayed for a direction to the respondents to continue him on the post of Teacher in the Education Department without any hindrance. The order dated 25th May, 1993 was communicated to the petitioner stating that his services have been terminated w.e.f. 2nd June, 1993.

The respondents in reply to the writ petition have come out with a clear case that petitioner secured appointment on the basis of certificate in Craft pursuant to advertisement issued by Zila Parishad, Dungarpur. It is the case of the respondents that on examination of the papers of the petitioner, he was not found eligible for appointment on the post of Teacher Gr.III and therefore the respondents directly decided to termination of his services.

This controversy was referred to a larger bench of this Court in Ram Chandra Swami vs. State of Rajasthan and the reference was made on the following question:-

> “Whether after decision of the Apex Court in Ram Sukh's case(supra) training in Craft could at all be treated as training in teaching as implicit in the rules and as envisaged in Ram Sukh's case and if so whether the petitioners are entitled to be appointed as general category teachers even though Craft not being taught as a subject in the Primary schools run by the Panchayat Samitis of Rajasthan?”

It has been stated by Mr.Rameshwar Dave, learned Dy.Government Advocate representing the respondents that the Full Bench of this Court by its judgment dated 27.6.1993 answered the aforesaid reference in negative. Accordingly, the petitioner cannot be held eligible for being appointed as Teacher Gr.III. He has also invited my attention towards the Apex Court judgment reported in State of Rajsathan vs. Shyam Lal Joshi, reportee in AIR 1994 S.C. p.1409 wherein their Lordships of the Hon'ble Supreme Court observed as under :-

> “In our opinion these contentions urged on behalf of the State must be accepted. A distinction has to be drawn between a general teacher who has received complete training and is in a position to teach all the subjects and a teacher who has received training in a particular Craft and therefore properly teaching that particular Craft only. Under the relevant rules for appointment on the post of primary school teacher it is necessary to have the BSTC or a training qualification recognised as equivalent to BSTC by the State Government. The N.T.C.is granted by the I.T.I. after a course of training in that particular Craft.
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> In view of the limited recognition that has been granted to N.T.Cs. The holders of N.T.C. can not claim appointment as general teachers and can only be appointed on the post of Craft teachers in the Craft for which they hold the N.T.C. For teaching the subjects other than craft for which they hold N.T.C. The holder of N.T.C. is not different from that of an untrained teacher. The need for appointment of properly trained teachers has been emphasised by this court.....”

In view of the above, I do not find any merit in the writ petition. The same is accordingly dismissed.

(MOHAMMAD RAFIQ),J.